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1944-

File No. O Navy Discipline/44.
Legal Department.
A **BRANCH**

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Subject:—

Opinions under the Indian Navy (Discipline) Act, 1934

P. M. L

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L.D.R.I.No. 398 Confl. Dt./5/12/44.

Submitted.

R.L.A.'s advice is sought on the point whether the verdict of the Court Martial in the case of Lt. H.L. Verma of the R.I.N. is perverse in the light of the evidence recorded and whether protest should be lodged with the Govt. of India in the matter (vide notes at pp.77-78 ante).

In his opinion No. 16 Confl. dated the 19th Jan. 1944,R.L.A. held that there was a prima facie case against Mr. Verma and advised his prosecution after obtaining Govt. of India's sanction.Govt. of Bombay accordingly approached Govt. of India for sanction to the prosecution. That Govt. however, decided that the case should be tried by the Naval Court Martial (vide p.27 ante). The Court ~~Martial~~ Martial was accordingly duly held Mr. E.B. Chaswalla, Bar-at-Law conducted the prosecution while Mr.R.S.Dixit, Bar-at-Law assisted by Mr. J.G. Dave, Bar-at-Law defended the accused, Mr. Verma. The trial was held before certain naval officers. These officers recorded a finding that "the charge against the accused is not proved" and therefore acquitted the accused. Unlike the ordinary Courts the Martial Court did not record a judgment except the above short finding (pl. see o. 125 of file of papers below). However, the minutes of the proceedings which have been taken down in shorthand, contain a complete record of the case and the evidence discussed. (The papers are put up below).

Criminal Cases in which appeal is to be preferred are usually referred to the P.P. and the G.P., H.C.for opini-On Perhaps that procedure may be followed in this case and the papers may be sent to the P.P. for Bombay for his advise in the matter.

H.P.R.
6-12.

A.L.R. Perhaps the P.P. in consultation with Mr.Chaswal may be asked whether in his opinion the judgment is

P.T.O.

A(A) Wants to know what action is possible to get the judgment reversed. In fact he does not seem to want R.L.A.'s opinion on the perverses of the judgment. However, H.D. has later referred the matter to H.D. on this point of perverseness L.D. has not been asked to consider what action should be taken. It is for H.D. to consider that first.

Sd/- R.S.A.
6-12.

R.L.A.

What A(H) presumably desires to know is whether the finding of the Court martial is final or whether it is possible for this Govt. or the Govt. of India to move further in the matter on the ground of the verdict being perverse or not in keeping with the recorded evidence. Will office please reexamine from this point of view.

It may also be worth examining whether the accused cannot claim the protection of sec. 4 of the Armed Forces (Special Powers) Ordinance 1942. I have not had time to read through Counsel's addresses to the Court of Engining, but they may throw some light on the defence under sec. 4.

Sd/- P.M.Hoos,
6-12-44.

4-Cs.

M.V.V.
5/7.

Office of the R.L.A.

The law applicable is chiefly the Indian Navy(Discipline) Act, 1934, which makes applicable to India the Naval Discipline Act (29 and 30 Vict. c. 109). There is no appeal against an order of acquittal by a Court-Martial however perverse. Nor is a second trial permissible. The civil Courts have no power to review. It is for H.D. to consider what protest can be made in the absence of any legal remedies.

Sd/- P.N.Noos,
15.12.44.

Remembrancer of Legal Affairs.

U.R. to H.D. (Spl.) No.379-Confl. dated the 15th December 1944.

4-Cs.

H.V.V.
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